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UNITED STATES OF AMERICA,

Plaintiff, : No. 1:23-cv-00853-DAE
v. :
: :
GREG ABBOTT, in his capacity as GOVERNOR : PETITION
OF THE STATE OF TEXAS, and :
THE STATE OF TEXAS, : March 1, 2024
Defendants. :
:

PETITION FOR A WRIT OF ERROR *CORAM NOBIS*

The Writs OF *Quae Coram Nobis Resident* ("Let the record remain before us" when applied to King's Bench) and *Quae Coram Vobis Resident* ("Let the record remain before you" (when applied to the Court of Common Pleas) were created in England by the *Curia Regis* ("royal council" which consisted of the King of England and his most loyal advisors) in the Eleventh Century. In English Law, the definition of "*coram nobis*" evolved and is now re-defined as a remedy for a court to correct its own error. Daniel F. Piar, Using *Coram Nobis* to Attack Wrongful Convictions, a New Look at an Ancient Writ, N. Ky. Law Review 505 (2003).

A Writ of *Coram Nobis* is a step in the original case and not the beginning of a separate proceeding. As a result, district courts must file Petitions for Writs of *Coram Nobis* under the original case number. *Telink, Inc. v. U.S.*, 24 F.3d 42, 46 (9th Cir. 1994) Further, when a Petition for a Writ of Error *Coram Novis* is filed with the Court, it must be docketed and the Petition must be ruled upon. This is because district court decisions on Petitions for a Writ of Error *Coram Novis* are reviewable on appeal. See, U. S. Circuit Court of Appeals for the District of Columbia Rule 4 (a). Generally, the standard of review is that any district court's determinations on questions of law are reviewed *de novo*, but that district court's determinations on questions of fact are reviewed for clear error (or clearly erroneous error). Under *de novo* review of federal *coram nobis* cases, the appellate court acts as if it were considering the question of law for the first time, affording no deference to the decision of the district court. Under Clear Error review of federal *coram nobis* cases, the appellate court must have a "definite and firm conviction that a mistake has been committed" by the district court. *Concrete Pipe & Products of Cal. v. Construction Laborers Pension Trust for Southern Cal.*, 508 U.S. 602, 622 (1993)

The Fundamental Errors in this Case

There are three Fundamental Errors presented by the Record in this case.

1. The Failure to Address the Role of Immigration and the Democratic and it's Impact Upon the Health of the American People

The open Southern Border has nothing to do with the interests of the United States. It has everything to do with the political power of the Democrat Party. Prior to the election of Barack Obama as President, the Democrat Party determined that if an election district - a Congressional District, a state legislative district or a city municipal district – was 16% or more foreign born, the Democrat Party had a 90% chance of winning the election in that district. Thus, the decision was made that as soon as Barack Obama was elected President, he would use the office of the President to open the Southern Border and flood the U.S. with foreign born persons, preferably minors.

The process began with the annual budgets for the U.S. Obama as his first order of business, proposed a budget for Fiscal Year 2010 which borrowed \$1.75 Trillion under Article I, Sec. 8, cl. 2 for spending under Article I, Sec. 8, cl. 1. As the Constitutional Scholar and former Editor in Chief of the Harvard Law Review well knew, that budget was unconstitutional. However, since the Democrats held the House and 60 votes in the Senate, the budget passed. Obama would subsequently borrow \$1.0 Trillion in the Budget for F.Y 2011.

Since these borrowed funds were raised outside the budget process, they represented a private stash for the Democrats under Obama. They used the funds to create an entirely new government one designed to bring in millions of foreign-born persons from across the Southern Border and distribute the foreign born persons geographically into Red States and Red Congressional and state legislative districts in Blue States. The Number One target was Texas.

From October 1, 2009, the beginning of F.Y. 2010, the Obama Administration built the bureaucracy that could bring millions of foreign-born children across the Southern Border and distribute them to political targets around the U.S. Launch date was scheduled for June, 2014. As the start date approached, someone in the Obama inner circle suggested that a study be done of potential migrant children who would be targeted for transfer into the U.S. to see what illness they may bring with them. Obama agreed and Navy Medical Unit #6 based in Lima, Peru was selected to do the study. Medical Unit #6 took throat swabs from thousands of children aged 13 and under throughout Latin America to see what illness they may carry. The Unit found that the children all carried a virus designated as EV D 68. This virus is not native to the U.S. It was unclear what the impact of the virus would have on the American people. More importantly, the Unit found that in a certain

percentage of the children carrying the D 68 virus, there were two strains of Polio. While this could certainly be a threat to Americans, especially children, it was not known if the Sabin 1 vaccine routinely administered to new born infants in the U.S. would protect American children from the two strains of Polio.

While the medical report was disturbing, the Obama Administration had gone beyond the point of no return. The \$2.75 Trillion had been borrowed, the government bureaucrats had been assembled and, more importantly, 20,000 unaccompanied minor children were sitting at the Mexican border ready to enter the U.S. Obama gave the green light to begin.

i The Biden Administration is Committing a Crime against Humanity.

As stated, D 68 is not native to the U.S. However, beginning in 1962 cases of D 68 infection were seen mainly in California and Colorado in persons who traveled to China or the Asian Pacific Rim on business or pleasure. The persons infected suffered only mild, flu-like symptoms. There were only 26 isolations of the D 68 virus between 1970 and 2005. Between 2005 and 2014, there were only one or two cases reported each year.

Once the release of illegal immigrants began in June, 2014, cases of D 68 virus appeared almost immediately. From mid-August 2014 to January 15, 2015, CDC or state public health laboratories confirmed 1,395 cases in 49 states and the District of Columbia with respiratory illness caused by EV-D68. Almost all of the confirmed cases were among children, many whom had asthma or a history of wheezing. Despite this proof that the D 68 virus in the U.S. would only increase, first the Obama Administration and now the Biden administration has only continued to release illegal immigrants into the U.S. In 2022, the outbreak of the D 68 virus was so great that children's hospitals and pediatric units in general hospitals began to run out of beds to treat children. In Connecticut, the crisis got so bad medical authorities considered asking state military medical units to set up beds next to hospitals so that the children could be treated.

Nor are the children suffering flu-like symptoms. Young children including infants required tubes be inserted into their throats in order to get oxygen into their lungs. Now, 2024 is a surge year for the D 68 virus. Starting this June, children will begin arriving at children's hospitals. This year, there will not be enough beds to care for all of the children who need hospitalization. Nevertheless, the Biden Administration continues to keep the Southern Border open.

The continued injection of illegal immigrants into a society that does not have herd immunity to the virus constitutes a Crime against Humanity under International Law. This Court has jurisdiction over International Law including Crimes against Humanity under the Judiciary Act of 1789. Rather than opening the Texas border, this Court should consider enjoining the Biden Administration from releasing any more illegal immigrants into the U.S., including Texas.

ii. The Biden Administration is Guilty of Genocide

For 70 years, the Sabin 1 Vaccine eliminated Polio from the U.S. When the Navey Unit #6 reported that Latin American children were carrying D 68 which contained two strains of Polio, the Obama Administration decided to gamble and release the 20,000 children assembled at the Mexican Border into the U.S. In all, the Obama Administration released 56, 000 illegal immigrants into the U.S. between June 2014 and January 2015. As planned, these 56,000 immigrants were distributed to 49 states and the District of Columbia. The state which received the most illegal immigrants was Texas which received 7,000.

The results of this release? Between August 2014 and January 2015, 1,153 Americans, mostly children, were infected with Polio. Of these, 14 children died. These numbers were replicated in 2016 and 2018. These numbers will be repeated again this year between June and January. Nothing can be done to stop these children

being paralyzed and, in some cases, killed. Their fate was determined by the Biden Administration's continued release of illegal immigrants into the U.S.

The Petitioner believes that the Obama and Biden Administration's release and distribution of Latin American children into the U.S. after receiving notice from Navy Unit #6 that the children carried two strains of Polio constitutes Genocide. Genocide is a crime under International Law and became a crime in the U.S. when the Senate ratified the Genova Convention on the Prevention and Prosecution of Genocide. Under the Convention, the State of Texas has jurisdiction to prosecute those responsible for the Genocide in state court. The punishment provided under International Law for Genocide is death, preferably by hanging. The punishment for aiding and abetting Genocide is prison terms of between 10 and 20 years. This Court should consider directing the State of Texas to convene a grand jury and investigate the possible Genocide by the Obama and Biden Administrations.

2. The Failure to Address the Role of Governor Abbott in Protecting the Health of Texas Children

Given the threat that the continued release of illegal immigrants into Texas posed to the health and safety of Texas citizens, Governor Abbott had no choice and he had to secure the Southern Border by whatever means possible. Fortunately for him and Texas, his actions were totally within his Constitutional Powers.

Protecting the health and safety of the citizens of a state is a Police Power reserved to the States under the Constitution, Under the Constitution the Governor has broad authority to take whatever action he deems necessary to protect the health and safety of the citizens in his state. *See, Alfred L. Snapp & Son., Inc. v Puerto Rico*, 458 U.S. 592, 600 – 610 (1982).

For years, the Abbott Administration has been fighting the Biden Administration in federal courts in an attempt to close the Southern Border to protect the health and safety of the citizens of Texas by forcing the Biden Administration to close the Southern Border, Truly, *Texas v. Biden* has almost become a cottage industry in Texas. The Border has, however, remained open. Frustrated, with the inability of the federal courts to protect the citizens of Texas, especially the children, Governor Abbott took the matter into his own hands. He ordered the Border to be secured with barbed wire and, where appropriate, with pontoons in the rivers, lakes and streams. It is his river restraints which is the subject of this litigation.

The Obama Administration wants to confine this case to maps and treaty restrictions. Interestingly, Mexico, which is the party protected by these treaties, is not the plaintiff in this case. The Plaintiff is the United States yet the U.S. does not plead any damage from Texas' effort to close the Border. The reason is that

the only U.S. entity which has been damaged by the effort of Gov. Abbott to close the Border is the Democrat Party and its plan to use foreign-born persons to increase its political power. In reality, the Department of Justice is representing the Democratic National Committee and not the People of the United States.

The treaties between the U.S. and Texas upon ratification by the Senate become the law of the United States. But treaties do not amend the Constitution. The treaties between the U.S. and Mexico cannot limit the Power of Governor Abbott to protect the health and safety of the citizens of Texas. In order to limit the use of the Police Power by Governor Abbott this Court would have to find that the Governor had somehow abused his discretion. Given the history of the D 68 Virus and Migrant Polio in Texas since 2014, that's going to be a tall climb indeed.

3. The Failure to Consider the Potential Criminal Liability of this Court for Aiding and Abetting Genocide

In this case, the Court finds itself in the position of a character in a Shakespearian Tragedy. The U.S. is asking this Court to authorize its use of force to remove the barriers set up by the State of Texas to protect its citizens from Crimes against Humanity and Genocide. While the U.S. is relying on its treaties, Governor Abbott is relying on his Constitutional Right to protect the health and safety of the citizens of Texas. Thus, the Court must find a way to

award the U.S. a pound of Flesh but not one drop of the Blood of a citizen of Texas can be spilled. And it must do so at the risk of being sentenced to 20 years in federal prison.

If the Court authorizes the Biden Administration to use force to remove the barriers erected by Governor Abbott, the flood of illegal immigrants will be renewed and the Genocide begun by the Obama Administration and continued by the Biden Administration in Texas will be renewed. If that happens then this Court will be guilty of aiding and abetting Genocide. Under the Geneva Convention, Texas would have the authority to arrest the Court, try it for aiding and abetting Genocide and, if convicted, sentence the Court up to 20 years in prison. *America v. Josef Altsoffer, et al.*, Case #3, Records of the United States Nuremberg War Crimes Trials, February 17, 1947 to December 4, 1947. Under International Law, if the Court either aids a Crime against Humanity or Genocide, it loses its immunity from prosecution and punishment and can be either fined or sent to prison. In International Law this is known as *Jus Cogens*. The decision before this Court is does it protect the spread of D 68 and Polio by the Democrat Party or does it allow Governor Abbott to protect the health and safety of the citizens of Texas.

CONCLUSION

This Court should grant the Petition and allow the Petitioner to appear at the trial of this case to prove the allegations made in this Petition.

Respectfully submitted,


Robert A. Hegmann

P.O. Box 2108

Leander, Texas 78646

Bob_Hegmann@Reagan.com

CERTIFICATION

The Petitioner hereby certifies that a copy of this Petition was served upon the counsel for the United States and the State of Texas by U.S. Mail, Postage-Prepaid on March 1, 2024.



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